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A CRITICAL ANALYSIS ON THE LAW RELATING TO RAPE IN INDIA

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ABSTRACT

The word rape is derived from the Latin term rapio, which mean 'to seize'. Thus rape literally means a forcible seizure. It signifies in common terminology, "as the ravishment of a woman without her consent, by force, fear, or fraud" or "the carnal knowledge of a woman by force against her will.". Sexual assault on women is a common phenomenon in our country. Under sexual assault comes; Rape, molestation, eve-teasing, child sex abuse, marital rape, domestic violence, among these offences, rape is the most violent crime which is committed against women or any femail. According to Section 375 of the Indian Penal Code 1860. Rape means an unlawful intercourse done by a man with a woman or any femail without her valid consent. Rape outrages a woman's modesty and virginity also. After a rape incident, a woman lives a pathetic life which includes fear, depression, guilt complex, suicidal action and social stigma. In recent times, Rape incidents have increased manifold. According to statistics report, two women are raped in our country every hour. If further statistics are to be believed, every 10 hours a girl of age 1-10 is being raped in our country. It appears that the rapists are not scared of laws. Cases are also reported where minors and women are being raped. The recent incident which shook the nation was the Delhi gang rape of a 23 year old para-medical student in a moving bus on the streets of Delhi. The offence of rape in Inda is regulated by the India penal code, Code of criminal procedure 1973, Indian evidence act 1872. etc, This paper endeavours to high light the concept of rape in India, definition of rape in India, history of law relating rape in India, some notable cases of rape, convictions of rape cases, law relating to rape in India, causes, effects, remedies of rape in India etc, on the basis of existing literature, reports, studies, differet cases and other relavent materials, etc.

Key words: Rape, sexual assault, forcible seizure, ravishment, woman, fear, depression, guilt complex, suicidal action, social stigma, modesty, virginity, Section 375, Indian penal code 1860, code criminal proceedure 1973, India evidence act 1872, literature, reports, studies, different cases etc.

INTRODUCTION

Rape is the fourth most common and heinous offence against women in India. According to the National Crime Records Bureau (NCRB) 2013 annual report, 24,923 rape cases were reported across India in 2012. Out of these, 24,470 were committed by someone known to the victim (98% of the cases). India has been characterised as one of the "countries with the lowest per capita rates of rape". Many rapes go unreported in various countries including India also.

In India, consensual sex given on the false promise of marriage constitutes rape. The willingness to report the rape has increased in recent years, after several incidents of rape received widespread media attention and triggered public protest. This led the Government of India to reform its penal code for crimes of rape and sexual assault. According to NCRB and other reports and ngos 2015 statistics, Madhya Pradesh has the highest number of rape reports among Indian states, while Jodhpur in Rajasthan has the highest per capita rate of rape reports in cities followed by Delhi, the capital city.

CONCEPT OF RAPE

Rape is a type of sexual assault usually involving sexual intercourse or other forms of sexual penetration carried out against any female or women without her consent. The offence of rape or sexual assault may be carried out by physical force, undue influence, coercion, abuse of authority, or against a person who is incapable of giving valid consent, such as one who is unconscious, incapacitated, has an intellectual disability or is below the legal age of consent that is 18 years. The word rape is sometimes used interchangeably with the word sexual assault also.

DEFINITION OF RAPE IN INDIA

Before 3 February 2013, Section 375 of the Indian Penal Code defined rape. A man is said to commit "rape" who, except case hereinafter excepted, has sexual intercourse with a woman in circumstances falling under any of the six following descriptions:-

Firstly. — Against her will.

Secondly. — Without her consent.

Thirdly. — With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly. — With her consent, when the man knows that he is not her husband, and that her

consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. — With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. — With or without her consent, when she is under sixteen years of age.

Explanation. — Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception. — Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.

The above definition excluded marital rape, same sex crimes and considered all sex with a minor below the age of sixteen as rape.

After 3 February 2013, the definition was revised through the Criminal Law (Amendment) Act 2013, which also raised the legal age of minor to eighteen. A man is said to commit "rape" if he:— (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or (b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or (c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or (d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:

Firstly. — Against her will.

Secondly. — Without her consent.

Thirdly. — With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly. — With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. — With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. — With or without her consent, when she is under eighteen years of age.

Seventhly. — When she is unable to communicate consent.

Explanation 1. — For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. — Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act;

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity. Exceptions — 1. A medical procedure or intervention shall not constitute rape; 2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

Even after the 2013 reform, marital rape when the wife and husband live together continued not to be a crime in India. Section 376B of the 2013 law made forced sexual intercourse by a man with his wife – if she is living separately – a crime, whether under a decree of separation or otherwise, punishable with at least a 2-years imprisonment. Forced sex by a man on his wife may also be considered a prosecutable domestic violence under other sections of Indian Penal code, such as Section 498(A) as well as the Protection of Women from Domestic Violence Act 2005. The crime of sexual assault on a child, that is anyone below the age of eighteen, is further outlined and mandatory punishments described in The Protection of Children from Sexual Offences Act 2012. All sexual acts between the members of the same sex, consensual or forced, was previously a crime under Section 377 of Indian penal code, after the 2013 Criminal Law reform, with punishment the same as that of rape but it was later overturned in a landmark judgement of the Supreme Court on 6 September 2018 which stated all consensual sexual acts between adults who have met the age of consent are not violative of Section 377, hence decriminalizing gay and lesbian sex in India.

HISTORY OF LAW RELATING TO RAPE OR SEXUAL ASSAULT IN INDIA

‘Rape’ as a clearly defined offence was first introduced in the Indian Penal Code in 1860. Prior to this, there were often diverse and conflicting laws prevailing across India. The codification of Indian laws began with the enactment of the Charter Act, 1833 by the British Parliament which led to the establishment of the first Law Commission under the chairmanship of Lord Macaulay.

The Law Commission decided to put the criminal law of the land in two separate codes. The first to be placed on the statute book was the Indian Penal Code formulating the substantive law of crimes. This was enacted in October 1860 but brought into force 15 months later on January 1, 1862. The first Code of Criminal Procedure was enacted in 1861, which consolidated the law relating to the set-up of criminal courts and the procedure to be followed in the investigation and trial of the offence.

SOME NOTABLE RAPE CASES IN INDIA

Ajmer rape case in 1992

In 1992, the Ajmer rape case was one of India's biggest cases of coerced sexual exploitation. Most accused were from Ajmer Dargah of Moinuddin Chishti.

Delhi Gang rape case in 2012

People silently marching to protest with candlelight at Salt Lake City in Kolkata after the female victim's death on 29 December 2012 People in Bangalore protesting outside Bangalore Town Hall on 30 December 2012 demanding justice for the 23-year-old student who was gang-raped in Delhi on 16 December 2012

The gang rape of a 23-year-old student on a public bus, on 16 December 2012, sparked large protests across the capital Delhi. She was with a male friend who was severely beaten with an iron rod during the incident. This same rod was used to penetrate her so severely that the victim's intestines had to be surgically removed, before her death thirteen days after the attack. The following day, there was an uproar in the Indian parliament over the incident. MPs in both houses had set aside their regular business to discuss the case and demanded strict punishment for those who carried out the attack. The Leader of the Opposition in the Lok Sabha, Sushma Swaraj, demanded that "the rapists should be hanged". Thousands of people, mostly young, participated in a massive demonstration on 22 December in protest. Police arrested six men suspected of rape.

Mumbai gang rape case in 2013

In August 2013, a 22-year-old photojournalist, who was interning with an English-language magazine in Mumbai, was gang-raped by five persons, including a juvenile, when she had gone to the deserted Shakti Mills compound, near Mahalaxmi in South Mumbai, with a male colleague on an assignment. This caused protests throughout the country since Mumbai with

its very active nightlife was previously considered a safe haven for women. The city sessions court found the accused guilty and sentenced death penalty to the three repeat offenders in the Shakti Mills gang rape case, making them the first in the country to get the death sentence stipulated under the newly enacted Section 376E of the Indian Penal Code.

Ranaghat case in 2015

On 14 March 2015, a 71-year-old nun was allegedly gang-raped in Ranaghat, West Bengal by intruders at Convent of Jesus and Mary. The six intruders were recorded on CCTV during their crime of ransacking the chapel, destroying religious items, looting cash and the gang rape. Six men were arrested and charged with the crime by 1 April 2015, and identified to be Bangladeshi Muslims.

Delta Meghwal rape case in 2016

On 29 March 2016, the corpse of Delta Meghwal, a 17 year old Dalit girl, was found in her hostel's water tank. Following the registration of the police case the hostel warden, physical education teacher and principal were arrested by Bikaner police and kept under judicial custody. The State eventually acceded to a CBI inquiry after the issue became politicised.

Kathua rape case

On 17 January 2018, Asifa, an 8-year old minor girl, was raped and murdered in Rasana village near Kathua in Jammu and Kashmir. The incident made national news when charges were filed against eight men in April 2018. The arrests of the accused led to protests from groups, one of which was attended by two ministers from the Bharatiya Janata Party, both of whom have now resigned. The rape and murder, as well as the support the accused received, sparked widespread outrage.

Unnao rape case

The Unnao rape case saw an allegation that lawmaker Kuldeep Singh Sengar had raped a 17-year old girl in 2017. In 2018, the alleged victim's father was jailed under the Arms Act, and died in prison after being allegedly beaten up by Sengar's brother and several others. Also in 2018, a witness to the alleged assault, Yunus, died and was immediately buried by his family with no autopsy and no communication to police or investigators. Yunus' wife and family said Yunus had been ill and died a natural death. The uncle of the alleged victim was arrested and jailed in 2018 due to an 18 year old gun-firing case. In 2019, a truck with blackened license

plates hit the car in which the alleged victim and others were riding in. As a result, the victim's paternal and maternal aunts were killed. The alleged victim and her lawyer were critically injured. The police officers assigned to provide security for the alleged victim were not present, with the explanation that there was no space in the car in which the alleged victim was travelling in.

Jammu and Kashmir

There have been allegations of rape and mass rape in Jammu and Kashmir. Reports have shown that rape has been carried out by both Indian armed forces and Islamist militant groups. The rapes by Islamic militants have been reported since the Indo-Pakistani War of 1947. On 22 October 1947, Pashtun militants invaded Baramulla in a Pakistan army truck, and raped women including European nuns. In March 1990, Mrs. M. N. Paul, the wife of a BSF inspector was kidnapped, tortured and gang-raped for many days. Then her body with broken limbs was abandoned on a road. The International Commission of Jurists have stated that though the attacks had not been proven beyond a doubt, there was credible evidence that it had happened. In 2011, the State Human Rights Commission (SHRC) asked for the reopening of the case. Militant organisations such as Hizb-ul-Mujahideen, Jamiat-ul-Mujahideen and Harkat ul-Ansar have been accused of carrying out rapes. The Jammu Kashmir Liberation Front has been accused of ethnic cleansing of using murder, arson, and rape as a weapon of war to drive out hundreds of thousands of Hindu Kashmiri Pandits from the region. Following the rise of rapes by the Indian armed forces and militants, HRW has submitted that the victims of rape suffer ostracism and there is a "code of silence and fear" that prevents people from reporting such abuse. According to the HRW, the investigation of case of rape by Indian forces and militants is difficult because many Kashmiris are reluctant to discuss it for the fear of violent reprisals.

Northeast India

Human rights groups allege that the Indian armed forces under the protection of the Armed Forces (Special Powers) Act, 1958 have carried out a large amount of rapes in the Nagaland, Assam and Manipur provinces. Karlsson writes that there are reports that much of the violence against civilians, including sexual assault, is inflicted by the rebel groups and armed criminal gangs in the region.

Uttar Pradesh

There is wide discrepancy among reports of rape and sexual assault. For example, according

to the People's Union for Civil Liberties (PUCL), the majority of those assaulted in 2007 were poor women from remote areas and Dalits. SR Darapuri of the PUCL alleged, "I analysed the rape figures for 2007 and I found that 90% of victims were Dalits and 85% of Dalit rape victims were underage girls." Darapuri allegations do not match with the data compiled by National Crime Records Bureau of India, which found 6.7% of rape and sexual assault victims were Dalits in 2007, where nearly 16% of Indian population is classified as Dalit. There were 391 cases of rape of Dalit victims reported in Uttar Pradesh in 2013 or about 1 per 100,000 Dalits in the state of about 200 million people (21% of which is classified as Dalit).

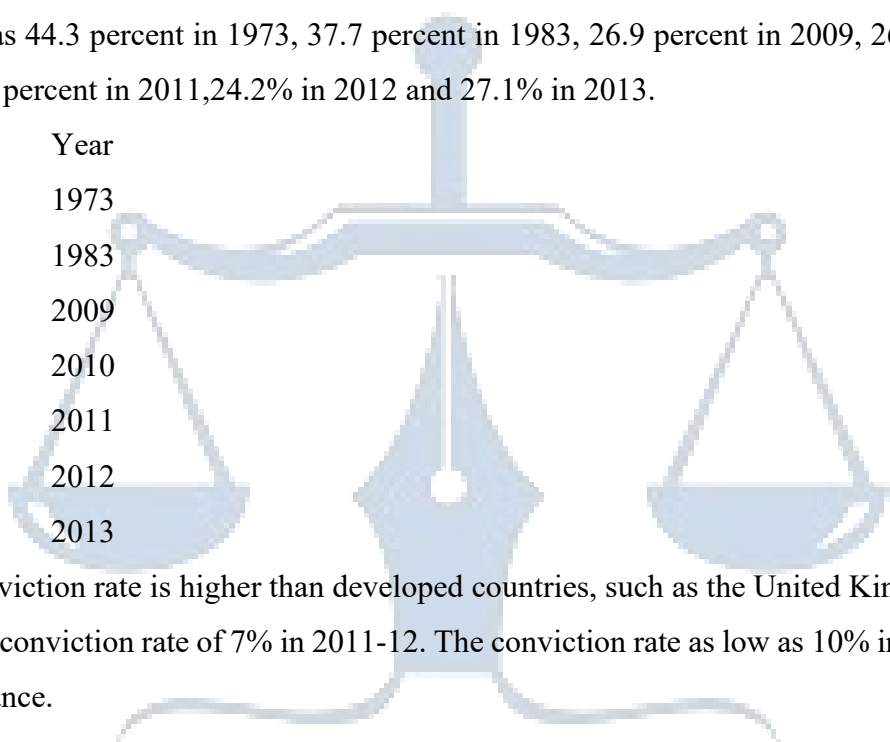
Hyderabad gang rape case

In November 2019, the gang rape and murder of a 26-year-old veterinary doctor in Shamshabad, near Hyderabad, sparked outrage across India. Her body was found in Shadnagar on 28 November 2019, the day after she was murdered. Four suspects were arrested and, according to the Cyberabad Metropolitan Police, confessed to having raped and killed the doctor. The Telangana Police Department stated that the victim had parked her scooter near a toll plaza, which caught the attention of two lorry drivers and their assistants. According to police, they deflated her tire, pretended to help her, and pushed her into nearby bushes, where they raped and smothered her. Then they allegedly loaded her corpse onto a lorry and dropped it on the roadside. The police arrested four men based on the evidence gathered from CCTV cameras and from the victim's mobile phone. The accused were taken into judicial custody at Cherlapally Central Jail for fourteen days. The Telangana Chief Minister ordered the formation of a fast-track court to try the accused for their alleged crimes. The rape and murder elicited outrage in several parts of the country. Protests and public demonstration against rape were organised nationwide after the incident, with the public demanding stricter laws against rape and rapists. The Minister of Home Affairs criticised the Telangana Police and stated that the government intended to amend the Indian Penal Code and Code of Criminal Procedure to introduce laws for quicker punishment by fast-track courts. All four accused were killed in a police encounter on 6 December 2019, under a bridge on Bangalore Hyderabad national highway, while they were in police custody. According to the police, the suspects were taken to the location for a reconstruction of the crime scene, where two of them allegedly snatched guns and attacked the police. In the ensuing shootout, all four suspects were shot dead. Some accused the police of extrajudicial execution, while thousands of people celebrated the men's deaths. The first post-mortem of the four accused who were killed in the encounter was conducted on the same day itself at a government hospital in Mahabubnagar from where the

bodies were subsequently moved to the Gandhi Hospital. The Telangana High Court on 21 December ordered the re-postmortem of the four accused. The second autopsy was done by a team of forensic experts of AIIMS, Delhi at a hospital in Hyderabad. After re-postmortem, the bodies have been handed over to the next of kin after due identification process was done.

CONVICTION OF RAPE CASES IN INDIA

The conviction rate for rapists has fallen at a steep rate over the past 40 years. Out of all the rape trials in India, only one out of four leads to a conviction. The conviction rate for rape cases in India was 44.3 percent in 1973, 37.7 percent in 1983, 26.9 percent in 2009, 26.6 percent in 2010, 26.4 percent in 2011, 24.2% in 2012 and 27.1% in 2013.



Rate (%)	Year
44.3	1973
37.7	1983
26.9	2009
26.6	2010
26.4	2011
24.2	2012
27.1	2013

India's conviction rate is higher than developed countries, such as the United Kingdom, which recorded a conviction rate of 7% in 2011-12. The conviction rate as low as 10% in Sweden and 25% in France.

LAW RELATING TO RAPE IN INDIA

In India, after the Nirbhaya Delhi Gang Rape case, 'The Criminal Law Amendment Act, 2013' came in to force w.e.f 3rd of Feb, 2013. Now this case was recorded as 'Rarest of Rare case' in the history of Indian Judiciary case laws. By this amendment act, our legislators introduced some new sections and make some amendments in Indian Penal Code, Criminal Procedure Code, Indian Evidence Act and Protection of children from sexual offences act.

Some of the important changes brought about by the Act 43 of 1983 and Act 13 of the 2013 and other provisions are listed below:-

Consent of woman of unsound mind or under intoxication is not to be considered valid defence.
Burden of Proof of innocence on accused – Section 114A was inserted in The Indian Evidence

Act, 1872 vide Criminal Law (Amendment) Act 43 of 1983.

Prohibition of disclosure of the identity of the victim– Section 228A IPC added vide Criminal Law (Amendment) Act 43 of 1983.

Persistent Vegetative State– A new section 376 A has been added vide Criminal Law (Amendment) Act 13 of 2013. When an injury caused to the victim results in death of the women or causes women to be in a persistent vegetative state, then the accused shall be liable for imprisonment for a term which cannot be less than 20 years or may extend to imprisonment of life or remainder of that persons natural life or till death.

Trial in Camera– Section 327 CrPC, 1973 has been amended vide Criminal Law (Amendment) Act 13 of 2013, to the effect that the inquiry into and trial of rape or an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code shall be conducted in camera.

Custodial Rape– Section 376C, IPC comprise a group of sections that create a new category of offence, known as custodial rape which does not amount to rape because in such cases the consent of the victim is obtained under compelling circumstances. (Substituted by Criminal Law (Amendment) Act 13 of 2013)

Intercourse with wife during judicial separation– Section 376 B IPC inserted vide Criminal Law (Amendment) Act 13 of 2013 makes sexual intercourse with one's own wife without her consent under a decree of separation punishable, with a minimum of 2 years that extend to 7 years.

Minimum punishment for Rape– This provision has been made more stringent vide Criminal Law (Amendment) Act 13 of 2013.

Character assassination of prosecutrix prohibited– A 'Proviso clause' to section 146 of the Indian Evidence Act, 1872 inserted vide Criminal Law (Amendment) Act 13 of 2013 has disallowed to put questions about prosecutrix character in cross-examination.

U/s 114-A of Indian Evidence Act, presumption can be made as to the absence of consent in certain prosecutions for rape. U/s 53(1) of Code of Criminal Procedure, When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of a police officer not below the rank of sub-inspector, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is

reasonably necessary for that purpose. U/s 164A of Code of Criminal Procedure, provisions for medical examination of rape victim are given. Rape is a crime against basic human rights and is also violative of the victim's most cherished of the fundamental rights, normally, the right to life contained in Article 21 of the constitution of India.

Section 375 of Indian penal code 1860, A man is said to commit "rape" if he—

- a. penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
- b. inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or
- c. manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any ~ of body of such woman or makes her to do so with him or any other person; or
- d. applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:— First.—Against her will. Secondly.—Without her consent. Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt. Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married. Fifthly.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent. Sixthly.—With or without her consent, when she is under eighteen years of age. Seventhly.—When she is unable to communicate consent.

Explanation I.—For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the

reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1.—A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.'

Punishment for rape

Section 376 of Indian penal code 1860

1. Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.
2. Whoever,—
 - a. being a police officer, commits rape—
 - i. within the limits of the police station to which such police officer is appointed; or
 - ii. in the premises of any station house; or
 - iii. on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or
 - b. being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or
 - c. being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or
 - d. being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or
 - e. being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or
 - f. being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or
 - g. commits rape during communal or sectarian violence; or
 - h. commits rape on a woman knowing her to be pregnant; or
 - i. commits rape on a woman when she is under sixteen years of age; or
 - j. commits rape, on a woman incapable of giving consent; or
 - k. being in a position of control or dominance over a woman, commits rape on such woman; or
 - l. commits rape on a woman suffering from mental or physical disability; or

m. while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

n. commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,—

a. "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any Jaw for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government!, or the State Government;

b. "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

c. "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

d. "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

Punishment for causing death or resulting in persistent vegetative state of victim.

Section 376A. Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death. Sexual intercourse by husband upon his wife during separation, Section 376B, Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine. Explanation.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375. Sexual intercourse by person in authority.

Section 376C. Whoever, being—

- a. in a position of authority or in a fiduciary relationship; or
- b. a public servant; or
- c. superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or
- d. on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Explanation 1.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375. Explanation 2. —For the purposes of this section, Explanation I to section 375 shall also be applicable. Explanation 3.—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates. Explanation 4.—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation to sub-section (2) of section 376.

Gang rape.

Section 376D. Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim: Provided further that any fine imposed under this section shall be paid to the victim. Punishment for repeat offenders.

376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 3760 and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death. In 2012, following the December 16 gang rape and murder in Delhi, led to the passing of the Criminal Law

(Amendment) Act in 2013 which widened the definition of rape and made punishment more stringent. Parliament made the amendments on the recommendation of the Justice J.S. Verma Committee, which was constituted to re-look the criminal laws in the country and recommend changes. The 2013 Act, which came into effect on April 2, 2013, increased jail terms in most sexual assault cases and also provided for the death penalty in rape cases that cause death of the victim or leaves her in a vegetative state. It also created new offences, such as use of criminal force on a woman with intent to disrobe, voyeurism and stalking. The punishment for gang rape was increased to 20 years to life imprisonment from the earlier 10 years to life imprisonment.

Earlier, there was no specific provision in law for offences such as use of unwelcome physical contact, words or gestures, demand or request for sexual favours, showing pornography against the will of a woman or making sexual remarks. But, the 2013 Act clearly defined these offences and allocated punishment. Similarly, stalking was made punishable with up to three years in jail. The offence of acid attack was increased to 10 years of imprisonment.

Offence of rape against minor:

In January 2018, an eight-year-old girl in Rasana village near Kathua in Jammu and Kashmir was abducted, raped and murdered by a group of men. The news of the shocking act led to nationwide protests and calls for harsher punishment.

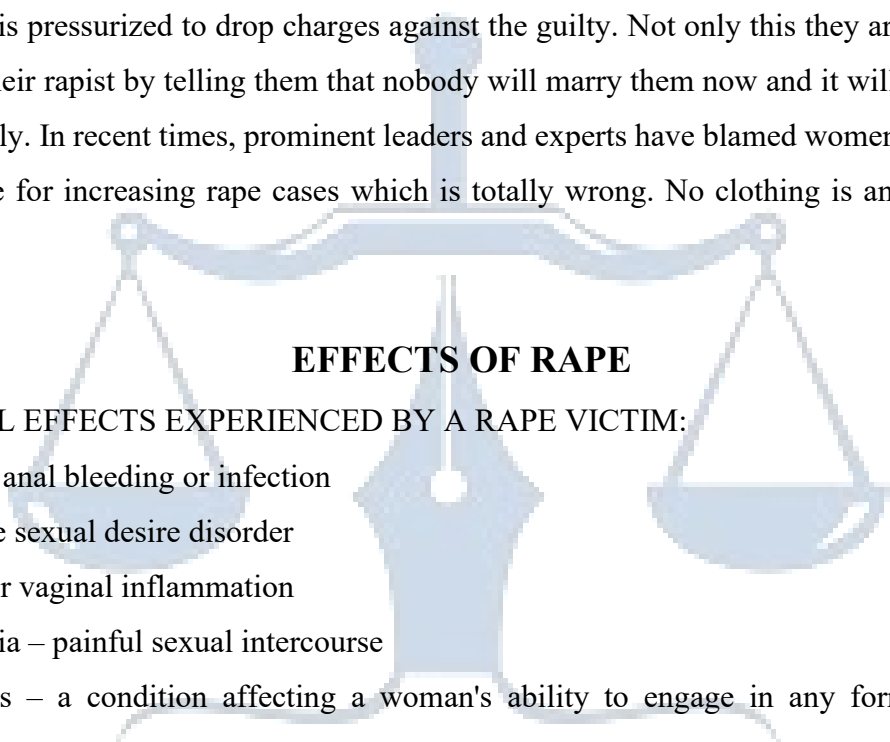
This led to the passing of the Criminal Law (Amendment) Act, 2018 which for the first time put death penalty as a possible punishment for rape of a girl under 12 years; the minimum punishment is 20 years in jail. Another new section was also inserted in the IPC to specifically deal with rape on a girl below 16 years. The provision made the offence punishable with minimum imprisonment of 20 years which may extend to imprisonment for life.

The minimum jail term for rape, which has remained unchanged since the introduction of the IPC in 1860, was increased from seven to 10 years.

CAUSES OF RAPE

The First and the foremost cause of increasing rape cases is the lack of public safety. Women are not safe outside their homes and why only outside they are not safe even inside their homes. A number of cases have been reported wherein the guilty has committed the crime in the very house of the victim. Rapes are being done in moving vehicles also which raise a question on the effectiveness of the traffic system of our country. Another important reason is the dearth of

police officials and female police officers in particular. According to the Times of India, there is 1 officer for every 200 citizens. Studies show that rape victims are more likely to report sex crimes if female police officers are available. Lack of female police further aggravates the problem. Another very important reason is a sluggish court system of India and few convictions. India's court system is painfully slow and for rapes that do get reported, the conviction rate is not more than 26%. As the accused is not convicted, others think that they can go around freely and rape whosoever they like. Stigmatizing the victim and encouraging the victim to compromise gives a further impetus to this horrendous crime. In many rural areas, the victim is pressurized to drop charges against the guilty. Not only this they are encouraged to marry their rapist by telling them that nobody will marry them now and it will bring shame to her family. In recent times, prominent leaders and experts have blamed women's clothing as responsible for increasing rape cases which is totally wrong. No clothing is an invitation to rape.



EFFECTS OF RAPE

PHYSICAL EFFECTS EXPERIENCED BY A RAPE VICTIM:

Vaginal or anal bleeding or infection

Hypoactive sexual desire disorder

Vaginitis or vaginal inflammation

Dyspareunia – painful sexual intercourse

Vaginismus – a condition affecting a woman's ability to engage in any form of vaginal penetration

Chronic pelvic pain

Urinary tract infections

Unwanted Pregnancy

HIV or AIDS and STD (Sexually transmitted diseases)

PSYCHOLOGICAL EFFECTS EXPERIENCED BY A RAPE VICTIM:

1. Fear.
2. Anxiety
3. Post traumatic stress disorder.
4. Depression.
5. Self blame.

6. Suicide
7. Frustration.
8. Anger. Etc.

REMEDIES

The dire need of today is to curb this violent crime. The most important step to be taken in this direction is the strengthening of laws dealing with sexual assaults. Death penalty should be imposed on a rape accused. A woman's squad should be formed in every district which would exclusively deal with problems of women. Fast track courts must be established so that justice is given as early as possible. Some NGO should start Rape Crisis Centre where victim can approach by calling a toll-free number or physically visiting the local centres. Such centre should play a vital role in supporting rape victims to cope up with the psychological trauma and also guide them to obtain legal remedy.

CONCLUSION

In my conclusion part I would like to express that, rape is a very heinous offence with severe trauma to the victim. The victims of rape are generally women or any female. The offence of rape punishes victimizers for entering into an individual's most private sphere or part. Laws punish individuals for that invasion. Unlike men, women have at least two most private spheres-the clitoris, vagina. The clitoris and the vagina are both female sex organs. The punishment for the invasion of either of those most private spheres should be identical. Rape is a sexual intercourse or other forms of sexual penetration carried out against any female or women without her consent. This practice permits men to continue, as they have from the beginning of history, to treat women as property. This affords men the right to touch a woman's body, even her treasures, until she resists to the point that he understands that she is resisting. As we approach the millennium, it is time for women to say "no." A woman's body is not the property of a man, and he is not entitled to touch, unless he gets permission from her. There is no right for anyone to invade a woman's most private sphere. The severity of the punishment is generally related to the invasion. Rape is the invasion of the female sex organs by a male. Including the clitoris as a female sex organ in the definition of rape reflects the woman's perspective of intrusiveness. Consequently, because the clitoris, like the vagina, is a sex organ in which the nonconsensual invasion is so intrusive, the invasion of it, like that of the vagina, is rape. However, after the Delhi gang rape case in 2012, the criminal laws of India are amended

by extending the definition of rape, adding new section, increasing the punishment of rape these are: Indian penal code 1860. Code of criminal procedure 1973, Indian evidence act 1872. As a result of this, we can express that the rate of the offence of rape will be reducing gradually.

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